

ESTTA Tracking number: **ESTTA494036**Filing date: **09/12/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	MCS Central Europe Sp. z.o.o.		
Entity	spÅ³lka z ograniczona odpowiedzialnia	Citizenship	Poland
Address	ul. Magazynowa 5a Gadki, 62-023 POLAND		

Attorney information	Anne M. Sterba Fish & Richardson P.C. P.O. Box 1022 Minneapolis, MN 55440-1022 UNITED STATES tmdoctc@fr.com, asterba@fr.com, mee@fr.com Phone:202-783-5070
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Registration Subject to Cancellation

Registration No	3169769	Registration date	11/07/2006
Registrant	DESA IP, LLC c/o HIG Capital, LLC 1001 Brickell Bay Drive, 27th Floor Miami, FL 33131 UNITED STATES		

Goods/Services Subject to Cancellation

Class 011. First Use: 2005/03/31 First Use In Commerce: 2005/03/31
All goods and services in the class are cancelled, namely: space heaters, namely, fluid fired, fixed and mobile space heaters for domestic and industrial use

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	DESA Petition For Cancellation.pdf (4 pages)(70967 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Anne M. Sterba/
Name	Anne M. Sterba

Date	09/12/2012
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MCS Central Europe Sp. z.o.o.

Petitioner,

v.

Desa IP, LLC
c/o HIG Capital, LLC

Registrant.

Cancellation No. _____

In the Matter of Registration No. 3,169,769

Mark: The logo for DESA INDOOR/OUTDOOR PRODUCTS. It features the word "DESA" in a large, bold, sans-serif font. Below "DESA" is the phrase "INDOOR/OUTDOOR PRODUCTS" in a smaller, all-caps, sans-serif font. The entire logo is enclosed within a rectangular border.

TRADEMARK TRIAL AND APPEAL BOARD
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

PETITION FOR CANCELLATION

Petitioner, MCS Central Europe Sp. z.o.o., a Polish entity, with an address at ul. Magazynowa 5a, 62-023 Gądk, Poland ("MCS"), believes that it will be damaged by the continued registration of the mark shown in Registration No. 3,169,769 for DESA INDOOR/OUTDOOR PRODUCTS and Design, and hereby petitions to cancel that registration under the provisions of 15 U.S.C. § 1064(3).

Registration No. 3,169,769 issued on November 7, 2006 to Desa IP, LLC c/o HIG Capital, LLC, a Florida limited liability company, with an address at 1001 Brickell Bay Drive, 27th Floor Miami, Florida 33131, for the mark DESA INDOOR/OUTDOOR PRODUCTS and Design for "space heaters, namely, fluid fired, fixed and mobile space heaters for domestic and industrial use" in Class 11.

As grounds for the cancellation, it is alleged that:

1. Petitioner filed a U.S. trademark application for DESA on December 29, 2011 for “space heaters, namely, fluid fired, fixed and mobile space heaters for domestic and industrial use” in Class 11 (Apn. Serial No. 85/505,748 (hereinafter "DESA Mark")).

2. Petitioner's Application Serial No. 85/505,748 was refused registration based on an alleged likelihood of confusion with Registrant's subsisting Registration No. 3,169,769 for DESA INDOOR/OUTDOOR PRODUCTS and Design.

3. Upon information and belief, Registrant is not using the mark DESA INDOOR/OUTDOOR PRODUCTS and Design in connection with the goods listed in Registration No. 3,169,769.

4. Upon information and belief, Registrant has no intent to resume use of the mark DESA INDOOR/OUTDOOR PRODUCTS and Design in connection with the goods listed in Registration No. 3,169,769.

5. In view of the foregoing, Registrant, upon information and belief, abandoned the mark in connection with the goods listed Registration No. 3,169,769.

6. Accordingly, Registration No. 3,169,769 should be cancelled in its entirety.

7. Based upon the foregoing, continued registration of the mark depicted in Registration No. 3,169,769 on the Principal Register of the United States Patent and Trademark Office will cause injury and damage to Petitioner.

WHEREFORE, Petitioner hereby requests that Registration No. 3,169,769 for DESA INDOOR/OUTDOOR PRODUCTS and Design be cancelled and that this Petition for Cancellation be sustained in Petitioner's favor.

Dated: September 12, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anne M. Sterba", written in a cursive style.

Anne M. Sterba

FISH & RICHARDSON P.C.
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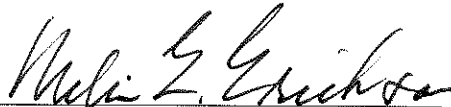
CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing PETITION FOR CANCELLATION
has been served by First Class mail, postage prepaid, to:

Desa IP, LLC
c/o HIG Capital, LLC
1001 Brickell Bay Drive
27th Floor
Miami, FL 33131

Julie Ann Gregory
MIDDLETON REUTLINGER
401 South Fourth Street, Suite 2600
Louisville, KY 40202

This 12th day of September, 2012


Melvin E. Erickson